Official Form 417A (12/15)

[Caption as in Form 416A, 416B, or 416D, as appropriate]

NOTICE OF APPEAL AND STATEMENT OF ELECTION

Part 1: Identify the appellant(s)

1. Name(s) of appellant(s):
   Ladder Capital Finance LLC and LMezz 250 W90 LLC

2. Position of appellant(s) in the adversary proceeding or bankruptcy case that is the subject of this appeal:

For appeals in an adversary proceeding.
- ☐ Plaintiff
- ☐ Defendant
- ☐ Other (describe) ______________________

For appeals in a bankruptcy case and not in an adversary proceeding.
- ☐ Debtor
- ■ Creditor
- ☐ Trustee
- ☐ Other (describe) ______________________

Part 2: Identify the subject of this appeal

1. Describe the judgment, order, or decree appealed from: Final Order Approving Debtors' Motion for (A) Authority to Obtain Postpetition Financing Pursuant to 11 U.S.C. §§ 105, 362, 364(c), and 364(e), and (B) Related Relief Pursuant to Fed. R. Bankr. P. 2002, 4001(c), 4001(d) and 9014 [Dkt. 63] [See Exhibit 1]

2. State the date on which the judgment, order, or decree was entered: March 28, 2017

Part 3: Identify the other parties to the appeal

List the names of all parties to the judgment, order, or decree appealed from and the names, addresses, and telephone numbers of their attorneys (attach additional pages if necessary):

1. Party: AC NW Retail Investment LLC
   Attorney: Arnold Mitchell Greene, Esq.
   Robinson Brog Leinwand Greene Genovese & Gluck, P.C.
   875 Third Avenue, 9th Floor
   New York, NY 10022

2. Party: Armstrong New West Retail LLC
   Attorney: Arnold Mitchell Greene, Esq.
   Robinson Brog Leinwand Greene Genovese & Gluck, P.C.
   875 Third Avenue, 9th Floor
   New York, NY 10022

3. Party: Bed Bath & Beyond, Inc.
   Attorney: Joseph A. Schwartz, Esq.
   Riker Danzig Scherer Hyland Perretti LLP
   One Speedwell Avenue
   Morristown, New Jersey 07962-1981

Part 4: Optional election to have appeal heard by District Court (applicable only in certain districts)

If a Bankruptcy Appellate Panel is available in this judicial district, the Bankruptcy Appellate Panel will hear this appeal unless, pursuant to 28 U.S.C. § 158(c)(1), a party elects to have the appeal heard by the United States District Court. If an appellant filing this notice wishes to have the appeal heard by the United States District Court, check below. Do not check the box if the appellant wishes the Bankruptcy Appellate Panel to hear the appeal.

- ☐ Appellant(s) elect to have the appeal heard by the United States District Court rather than by the Bankruptcy Appellate Panel.

Part 5: Sign below

Signature of attorney for appellant(s) (or appellant(s) if not represented by an attorney)

Date: March 29, 2017

Name, address, and telephone number of attorney (or appellant(s) if not represented by an attorney):

Leo V. Leyva, Esq.
Cole Schotz P.C.
1325 Avenue of the Americas, 19th Floor
New York, New York 10019

Fee waiver notice: If appellant is a child support creditor or its representative and appellant has filed the form specified in § 304(g) of the Bankruptcy Reform Act of 1994, no fee is required.

Exhibit 1

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re:	Chapter 11
AC NW RETAIL INVESTMENT LLC, and ARMSTRONG NEW WEST RETAIL LLC,	Case No. 16-23085 (RDD) and 16-23086 (RDD) (jointly administered)
Debtors.	

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FINAL ORDER APPROVING DEBTORS' MOTION FOR (A) AUTHORITY TO OBTAIN POSTPETITION FINANCING PURSUANT TO 11 U.S.C. §§ 105, 362, 364(c), AND 364(e), AND (B) RELATED RELIEF PURSUANT TO FED. R. BANKR. P. 2002, 4001(c), 4001(d) AND 9014

Upon the motion, dated February 20, 2017 [ECF Doc. 51] (the "Financing Motion"), filed in the above-captioned bankruptcy cases (the "Bankruptcy Cases") of AC NW Retail Investment LLC ("AC NW") and Armstrong New West Retail LLC ("Armstrong" and with AC NW, the "Debtors"), the debtors and debtors in possession herein, for authority to (a) Obtain Post-Petition Financing on a Junior Secured and Super-Priority Administrative Expense basis pursuant to 11 U.S.C. §105 and 364(c) and (b) Grant Related Relief Pursuant to Fed. R. Bankr. P. 4001(c) and (d); and upon the Objection of Ladder Capital Finance LLC ("Ladder") and LMEZZ 250 W90 LLC to Motion of Armstrong New West Retail LLC for Final Authority to (A) Obtain Postpetition Financing Pursuant to 11 U.S.C Sections 105, 362, 364(c)(1), 364(c)(2), 364(c)(3), and 364(e) and Fed. R. Bankr. P. 2002, 4001(c), 4001(d) and 9014 and (B) Granting Related Relief, dated March 10, 2017 [ECF Doc 56] (the "Objection"); and upon such parties' Supplemental Objection to Motion for Final Authority to Obtain Postpetition Financing [ECF Doc 58] (the "Supplemental Objection"); and upon the Debtors' Reply to Objection of Ladder Capital Finance LLC and LMezz 250 W90 LLC to Debtors' Motion for Authority to Obtain Post-

Petition Financing, dated March 15, 2017 [ECF Doc 59] (the "Debtors' Reply"); and upon the Motion to Strike Appraisal Attached to Debtors' Reply to Lenders' Objection to the Motion for Final Authority to (A) Obtain Post-Petition Financing Pursuant to 11 U.S.C. Sections 105, 362, 364(c)(1), 364(c)(2), 364(c)(3), and 364(e) and Fed. R. Bankr. P. 2002, 4001(c) and 4001(d) and 9014 and (B) Granting Related Relief, dated March 16, 2017 [ECF Doc 61] (the "Motion to Strike"); and there being due and sufficient notice, in accordance with Bankruptcy Rules 2002, 4001 and 9014 and the Local Bankruptcy Rules, of the Motion and the final hearing thereon held by the Court on March 17, 2017 (the "Final Hearing"); and upon the record of, including the representations made at, the Final Hearing (which representations, to the extent that they clarify or construe the DIP Financing Documents, are deemed incorporated into the DIP Financing Documents); and after due deliberation and consideration, and for good and sufficient cause appearing therefor:

THE COURT HEREBY MAKES THE FOLLOWING FINDINGS OF FACT AND CONCLUSIONS OF LAW:

A. Commencement of the Case. On August 9, 2016 (the "Petition Date"), the Debtors commenced these bankruptcy cases by filing petitions for relief under chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the Southern District of New York (the "Court"). Since the Petition Date, the Debtors have remained in possession of their assets and are debtors in possession pursuant to §§ 1107 and 1108 of the Bankruptcy Code. No trustee or examiner has been appointed in the Bankruptcy Cases.

B. Jurisdiction and Venue. This Court has jurisdiction, pursuant to 28 U.S.C. §§ 157(b) and 1334(b), over these proceedings, and over the persons and property affected hereby. Consideration of the Motion constitutes a core proceeding under 28 U.S.C. § 157(b)(2), and both the Debtor and Bed Bath & Beyond Inc. (the "DIP Lender") consent to the entry of this

Final Order to the extent that it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments in connection with the Motion consistent with Article III of the United States Constitution. The statutory predicates for the relief sought herein are sections 362 and 364 of the Bankruptcy Code, Bankruptcy Rules 2002, 4001(c), 4001(d) and 9014 and Local Rule 4001-2. Venue is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409.

C. **Notice.** Notice of the Final Hearing and the relief requested in the Motion has been provided by the Debtors as set forth in the Motion. Under the circumstances, such notice of the Final Hearing and the relief requested in the Motion constitutes due, sufficient and appropriate notice and complies with section 102(1) of the Bankruptcy Code, Bankruptcy Rules 2002, 4001 and 9014, and applicable Local Bankruptcy Rules.

D. **Need for Postpetition Financing.** Armstrong requires postpetition financing on a final basis in order to preserve and maintain the value of its assets and, accordingly, has entered into a debtor-in-possession financing transaction described in the DIP Loan Agreement between Armstrong and the DIP Lender, attached to the Motion as Exhibit B (the "DIP Agreement"),[1] which shall hereinafter be referred to as the "DIP Facility." The DIP Facility and the documents and instruments governing the DIP Facility, including the DIP Agreement; the Mortgage, Security Agreement and Fixture Filing; the Promissory Note; and the Environmental Indemnity Agreement, each of which are attached as exhibits to the Motion, shall hereinafter be referred to as the "DIP Financing Documents." In the absence of the availability of such funds in accordance with the terms hereof and the DIP Agreement, the ability to fund construction costs

[1] Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the DIP Agreement.

at the Property, pay U.S. Trustee Fees, pay real estate taxes and condominium common charges at the Property and other administrative expenses would not be possible, and such financing is necessary to avoid immediate and irreparable harm to Armstrong and its estate, including to expedite the time that Armstrong will be able to derive material income and to avoid the accrual of postpetition taxes and penalties. Accordingly, there is sufficient cause to waive any 14-day stay of this Final Order under the Bankruptcy Rules.

E. **No Credit Available on More Favorable Terms.** Armstrong has been unable to obtain credit on more favorable terms and conditions than those set forth in the DIP Agreement and this Final Order.

F. **Use of Proceeds of the DIP Facility.** Proceeds of the DIP Facility (net of any amounts used to pay fees, costs and expenses under the DIP Financing Documents) shall be used, in each case in a manner consistent with the DIP Agreement, the DIP Financing Documents, the Budget (as defined below), and this Final Order; provided however, no pre-petition costs of construction (including demolition, architects, etc.) shall be paid from the DIP Facility. In the event that the terms of the DIP Agreement and/or the terms of the DIP Financing Documents are inconsistent with the terms of this Final Order, the terms of this Final Order shall control in all respects.

G. **Business Judgment and Good Faith Pursuant to Section 364(e).** Good cause has been shown for entry of this Final Order. The relief requested herein is necessary, essential and appropriate to aid the continuation of Armstrong's business and the preservation and maintenance of its assets, absent which Armstrong's ability to maximize the value of its estate for the benefit of creditors will be jeopardized. The terms and conditions of the DIP Facility, as set forth in the DIP Financing Documents, and the fees paid and to be paid thereunder (i) are fair, reasonable, and the best available under the circumstances; (ii) reflect Armstrong's exercise of prudent business judgment consistent with its fiduciary duties and are enforceable pursuant to their terms; (iii) are supported by reasonably equivalent value and consideration; and (iv) have been negotiated by Armstrong and the DIP Lender at arms' length and in good faith. The DIP Lender has indicated its willingness to provide DIP financing to Armstrong pursuant to the DIP Financing Documents. The funds to be extended under the DIP Facility will be extended by the DIP Lender in good faith, and for valid business purposes and uses by Armstrong, and, as a consequence, the DIP Lender is entitled to the protection and benefits afforded by section 364(e) of the Bankruptcy Code. The DIP Superpriority Claim (as defined herein), and other protections granted pursuant to this Final Order, the DIP Financing Documents and the DIP Facility, including the liens granted hereunder and thereunder, will not be affected by any subsequent reversal, modification, vacatur or amendment of this Final Order, as provided in section 364(e) of the Bankruptcy Code.

H. **Relief Essential; Best Interests.** The relief requested in the Motion (and as provided in this Final Order) is necessary, essential, and appropriate for the continued preservation of Armstrong's assets. It is in the best interest of the bankruptcy estate that Armstrong be allowed to obtain credit for the purposes set forth herein, in accordance with the DIP Facility and the DIP Financing Documents.

I. **Notice.** Notice of the Final Hearing and entry of this Final Order have been provided by Armstrong in accordance with Bankruptcy Rules 2002, 4001 and 9014, as well as this Court's Local Rules. Armstrong has made reasonable efforts to afford the best notice possible under the circumstances and the notice provided by Armstrong is good and sufficient to permit the relief set forth in this Final Order, and no further notice need be given.

J. **The Motion to Strike**. The appraisal that was the subject of the Motion to Strike was irrelevant to the Court's consideration of the Motion and was not considered by the Court.

K. **Adequate Protection.** For the reasons stated by the Court at the Final Hearing, the interest of Ladder and any other person or entity asserting a lien on the collateral that is the subject of the DIP Lien (defined below) granted to the DIP Lender hereby and in the DIP Financing Documents is adequately protected for purposes sections 361 and 364 of the Bankruptcy Code. No other party in interest is entitled to adequate protection under such sections.

NOW, THEREFORE, upon the Motion and the record before this Court with respect to the Motion, including the record made during the Final Hearing, and good and sufficient cause appearing therefor,

IT IS HEREBY ORDERED that:

1. **Motion Granted.** The Motion is granted on a final basis to the extent and in accordance with the terms and conditions set forth in this Final Order. The Objection and the Supplemental Objection are overruled except as otherwise set forth herein. The Court did not consider the appraisal attached to the Debtors' Reply and therefore the Motion to Strike is moot.

2. **DIP Financing Documents.**

(a) **Approval of Entry into the DIP Financing Documents.** Armstrong is hereby expressly and immediately authorized, empowered and directed to execute and deliver the DIP Financing Documents and to incur debt and to perform in accordance therewith, and to execute and deliver all instruments, certificates, agreements and documents which may be required or necessary for the performance by Armstrong in connection with the DIP Facility described in and provided for by this Final Order and the DIP Financing Documents. Armstrong is hereby authorized and directed to do and perform all acts, satisfy all obligations, and to pay all principal, interest, fees, expenses and other amounts described in the DIP Financing Documents as such become due (collectively with all other obligations under and as defined in the DIP Financing Documents, the "DIP Obligations"), which amounts shall not otherwise be subject to further approval of this Court. Upon execution and delivery, the DIP Financing Documents shall represent valid and binding obligations of Armstrong in accordance with their terms enforceable against Armstrong and the bankruptcy estate, but subject and subordinate to the Ladder Lien (as defined below).

(b) **Authorization to Borrow.** Subject to, and in accordance with, the terms and conditions of the DIP Financing Documents, Armstrong is immediately authorized to borrow funds from the DIP Lender in accordance with the Budget attached hereto as Exhibit A (the "Budget").

(c) **Use of the DIP Facility.** The DIP Facility shall be used by Armstrong solely for the purposes identified in the Budget to (i) pay related transaction costs, fees and expenses of the DIP Facility in accordance with the DIP Financing Documents; (ii) pay for construction and attendant costs related to tenant improvements; and (iii) pay administrative expenses incurred by Armstrong, including U.S. Trustee fees, real estate taxes, condominium common charges, and debt service to its senior secured creditor; provided, however, before any proceeds of the DIP Facility are expended for any other purpose, the Initial Advance items identified in the Budget, including but not limited to real estate taxes, which shall be brought current as of the Closing Date, must be paid.

(d) **Conditions Precedent.** The DIP Lender shall have no obligation to make any loan or any other financial accommodations under the DIP Financing Documents unless the

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conditions precedent to make such loans or financial accommodations under the DIP Financing Documents have been satisfied in full or waived in accordance with the DIP Financing Documents.

(e) **Junior Secured Claim**. Effective immediately upon the entry of this Final Order, and subject to the terms of the DIP Financing Documents, the DIP Lender is hereby granted a mortgage on the Property (the "DIP Mortgage"), subject and subordinate to the existing senior lien in favor of Ladder Capital Finance LLC (the "Ladder Lien"), as well as perfected security interests on all prepetition and postpetition assets and property of Armstrong, whether tangible or intangible (the "DIP Liens"), pursuant to Section 364(c)(2) of the Bankruptcy Code. To the extent those assets are subject to valid, perfected, enforceable and unavoidable liens or security interests, the DIP Liens granted hereunder shall be subject and subordinate to those existing liens or security interests, pursuant to Section 364(c)(3) of the Bankruptcy Code.

(f) **Enforceability of DIP Mortgage and DIP Liens.** The DIP Mortgage and the DIP Liens shall be deemed perfected as of the commencement of this case and shall be valid and enforceable against any trustee appointed in this case or in any successor case. No claim or lien having a priority superior to or *pari passu* with those granted by this Final Order (including, without limitation, liens and security interests, if any, granted in favor of any federal, state, municipal or other governmental unit, commission or board for any liability of Armstrong) shall be granted or allowed while any portion of the DIP Facility remains outstanding, and the DIP Mortgage and the DIP Liens shall not be (i) subject or junior to any lien or security interest that is avoided and preserved for the benefit of the Debtor's estate under section 551 of the Bankruptcy Code or (ii) subordinated to or made *pari passu* with any other lien or security interest, whether under section 364(d) of the Bankruptcy Code or otherwise, in each case other than the Carve-Outs (defined herein).

(g) **Perfection of DIP Liens.** This Final Order shall be sufficient and conclusive evidence of the validity, perfection, and priority of all liens granted pursuant to this Final Order, including the DIP Mortgage and the DIP Liens, without the necessity of filing or recording any financing statement, mortgage, notice, or other instrument or document which may otherwise be required under the law or regulation of any jurisdiction or the taking of any other action to validate or perfect (in accordance with applicable non-bankruptcy law) the DIP Mortgage or the DIP Liens, or to entitle the DIP Lender to the priorities granted herein. Notwithstanding the foregoing, the DIP Lender is authorized to file, as it in its sole discretion deems necessary, such financing statements, mortgages, notices of liens and other similar documents to perfect in accordance with applicable non-bankruptcy law or to otherwise evidence the DIP Mortgage or the DIP Liens, and all such financing statements, mortgages, notices and other documents shall be deemed to have been filed or recorded as of the date of entry of this Final Order; provided, however, that no such filing or recordation shall be necessary or required in order to create or perfect the DIP Mortgage or the DIP Liens. Armstrong is authorized and directed to execute and deliver promptly upon demand to the DIP Lender all such financing statements, mortgages, notices and other documents as the DIP Lender may reasonably request. The DIP Lender, in its discretion, may file a photocopy of this Final Order as a financing statement with any filing or recording office or with any registry of deeds or similar office, in addition to or in lieu of such financing statements, notices of lien or similar documents, and the subject filing or recording officer is authorized to file or record such copy of this Final Order. For the avoidance of doubt, the automatic stay imposed under section 362(a) of the Bankruptcy Code is hereby lifted as necessary to allow the DIP Lender to take the actions described in this paragraph.

(h) **DIP Lender's Superpriority Administrative Expense Claim.** To the extent of any funds advanced by the DIP Lender under the DIP Facility, effective immediately upon the entry of this Final Order, and subject to the terms of the DIP Financing Documents, the DIP Lender is hereby granted an allowed superpriority administrative expense claim pursuant to section 364(c)(1) of the Bankruptcy Code superior to any and all administrative expenses in this bankruptcy case and in any successor cases under the Bankruptcy Code (including any case or cases under chapter 7 of the Bankruptcy Code), including, without limitation, any and all administrative expenses of the kind specified or ordered pursuant to any provision of the Bankruptcy Code, including, but not limited to, sections 105, 326, 328, 330, 331, 364(c), 503(a), 503(b), 506(c), 507(a), 507(b), 546(c), 546(d), 552(b) and 1114 of the Bankruptcy Code, or any other provisions of the Bankruptcy Code (the "DIP Superpriority Claim"); provided, however, that the DIP Superpriority Claim shall be subject to the payment of fees and expenses and reimbursement of expenses payable to Robinson Brog Leinwand Greene Genovese & Gluck P.C., as counsel to Armstrong, up to a maximum amount of $200,000, the reasonable fees and expenses incurred by a trustee under section 726(b) of the Bankruptcy Code in an amount not to exceed $10,000.00, and the quarterly fees payable to the U.S. Trustee pursuant to 28 U.S.C. § 1930 and 31 U.S.C. § 3717(collectively, the "Carve-Outs").

(i) **Non-Disturbance of Lease.** Subject to DIP Lender's taking possession as a tenant under the August 2016 Lease Agreement (the "Lease") between Armstrong, as landlord, and DIP Lender as tenant (hereinafter for purposes of this subparagraph, the "Tenant") upon entry of this Final Order: (i) Ladder shall be prevented and enjoined from disturbing the possession of or by the Tenant in its capacity as tenant at the Property, and the Tenant's rights thereto shall not be disturbed, affected or impaired by, nor will the Lease, or the term thereof be terminated or otherwise affected by (x) any suit, action or proceeding brought upon the Ladder Mortgage or note or other obligation secured thereby, or for the foreclosure of the Ladder Mortgage or the enforcement of any rights under the Ladder Mortgage, or by any judicial sale or execution or other sale of the Property, or any deed given in lieu of foreclosure, or by the exercise of any other rights given to any holder of the Ladder Mortgage or other documents as a matter of law, or (y) any default under the Ladder Mortgage or note or other obligation secured thereby; (ii) subject to the condominium declaration, all condemnation awards and insurance proceeds paid or payable with respect to the Property shall be applied and paid in the manner set forth in the Lease; and (iii) to the extent Ladder or any future holder of the Ladder Mortgage shall become the owner of the Property by reason of foreclosure of the Ladder Mortgage or otherwise, or if the Property shall be sold as a result of any action or proceeding to foreclose the Ladder Mortgage, or transfer of ownership by deed given in lieu of foreclosure, bankruptcy sale under 11 U.S.C. §363(k) or other similar sale, the Lease shall continue in full force and effect, without necessity for executing any new lease, as a direct lease between the Tenant and the then owner of the Property, as "landlord," upon all of the same terms, covenants and provisions contained in the Lease; provided, that the issue of whether Armstrong was or is authorized to enter into the Lease has not been decided by this Final Order, and all rights of all parties in interest with respect to such issue are fully reserved.

(j) **Maturity/Authority to Use Proceeds of DIP Facility**. The DIP Facility will mature (the "Maturity Date"), and Armstrong's rights to use the extensions of credit under the DIP Financing Documents shall terminate on the earlier of (i) nine (9) years from the date of signing of the Note, (ii) the indefeasible payment in full in cash of the obligations owing to the

DIP Lender under the DIP Facility, or (iii) upon an Event of Default. All obligations and liabilities of Armstrong to the DIP Lender that remain outstanding or are in existence on the last day of the term of the DIP Facility shall be due and payable on the last day of the Maturity Date. Nothing in this Final Order shall authorize the disposition of any assets of Armstrong or the bankruptcy estate outside the ordinary course of business or other proceeds resulting therefrom, except as permitted under the DIP Facility and the DIP Financing Documents (subject to any required Court approval).

3. **Enforceable Obligations**. The DIP Financing Documents shall constitute and evidence the valid and binding obligations of Armstrong, which obligations shall be enforceable against Armstrong, the bankruptcy estate and any successors thereto and their creditors, in accordance with their terms.

4. **Use of DIP Facility**. From and after the date hereof, Armstrong shall use the proceeds of the extensions of credit under the DIP Facility only for the purposes specifically set forth in the DIP Financing Documents, this Final Order and the Budget.

5. **Payment of Compensation**. Nothing herein shall be construed as consent to the allowance of any professional fees or expenses of Armstrong or shall affect the right of the DIP Lender to object to the allowance and payment of such fees and expenses.

6. **Reporting to DIP Lender.** Armstrong shall provide to the DIP Lender such reports and information as may be reasonably requested by the DIP Lender. In addition, the DIP Lender shall have the right, upon reasonable notice to Armstrong, at any time during normal business hours, to inspect, audit, examine, check, and make copies of, and extract non-privileged information from, Armstrong’s records and to obtain company information from Armstrong’s management, and Armstrong shall make its records and management available to the DIP Lender

for such purposes. Further, Armstrong authorizes its independent certified public accountants, financial advisors, investment bankers, and consultants to cooperate, consult with, and provide to the DIP Lender all such information as may be reasonably requested with respect to the business, results of operations and financial condition of Armstrong. Armstrong shall also provide the DIP Lender with copies of all non-privileged consultants' reports, appraisals, business plans and similar documents as they become available to Armstrong, including, without limitation, any and all audits and other non-privileged reports prepared by Armstrong's accountants. Armstrong shall also provide the DIP Lender with a description of any documents withheld as privileged and shall give the basis for such assertion of privilege. In addition, Armstrong shall timely file and serve upon the DIP Lender and its counsel all pleadings and other documents filed by Armstrong in this case, including the financial reports required by the U.S. Trustee's office. All reports and information provided to the DIP Lender shall be provided simultaneously to Ladder.

7. **Survival/Events of Default.** Subject to the provisions of the DIP Financing Documents and this Final Order, unless and until all DIP Obligations are indefeasibly paid in full in cash (or other arrangements for payment of such amounts satisfactory (in its sole discretion) to DIP Lender have been made), the protections afforded to the DIP Lender pursuant to this Final Order and under the other DIP Financing Documents, and any actions taken pursuant thereto, shall survive the entry of any order confirming a chapter 11 plan or converting these cases into a case under chapter 7, and the DIP Mortgage, the DIP Liens and the DIP Superpriority Claim shall continue in these proceedings and in any successor case, and such DIP Mortgage, DIP Liens and DIP Superpriority Claim shall maintain their respective priority as provided by this Final Order.

8. **Rights and Remedies Upon Occurrence of Event(s) of Default.** Upon the occurrence of an Event of Default (as defined in the DIP Financing Documents), and after giving seven (7) days' written notice to Armstrong and Ladder, the DIP Lender shall be entitled to (a) seek relief from the automatic stay under section 362(a) of the Bankruptcy Code; and (b) upon entry of a Bankruptcy Court order lifting, vacating, modifying or terminating the automatic stay, the DIP Lender shall be entitled to exercise its rights and remedies in accordance with the DIP Financing Documents (unless within such seven (7) day period or at the hearing to consider DIP Lender's request for relief from the automatic stay, the Court determines that no default has occurred and is continuing), including, without limitation, terminating any obligations of the DIP Lender under the DIP Financing Documents absent further order of the Court. Furthermore, upon the occurrence of an Event of Default, upon the giving of seven (7) days' written notice to Armstrong and Ladder, the DIP Lender shall be specifically authorized to set off and apply any and all Rent Payments (as defined in the Loan Agreement) due and owing from the DIP Lender to Armstrong against any and all Indebtedness (as defined in the Loan Agreement) owing to the DIP Lender under the DIP Financing Documents, as further set forth in Section 8.17 of the Loan Agreement. All proceeds realized in connection with the exercise of the rights and remedies of DIP Lender shall be applied to the DIP Obligations under, and in accordance with the provisions of, the DIP Financing Documents.

9. **Modification of Automatic Stay.** The automatic stay provisions of section 362 of the Bankruptcy Code are hereby modified and lifted to the extent necessary to implement the provisions of this Final Order and the DIP Financing Documents, to file or record any mortgages, deeds of trust, financing documents and other instrument and documents evidencing

the DIP Lender's interest in the Property or any other assets, as and to the extent authorized by this Final Order.

10. **Good Faith Under Section 364(e); No Modification or Stay of this Final Order.** The DIP Lender is extending credit pursuant to this Final Order in "good-faith" within the meaning of section 364(e) of the Bankruptcy Code, and the credit extended by DIP Lender pursuant to this Final Order, and in connection with the DIP Facility and the DIP Financing Documents shall be deemed to be extended in good faith within the meaning of section 364(e) of the Bankruptcy Code, and the DIP Lender is entitled to the protections afforded by section 364(e) of the Bankruptcy Code, and no such appeal, modification, amendment or vacatur shall affect the validity and enforceability of any advances made hereunder or the rights, claims, or priority authorized or created hereby. Notwithstanding any such potential modification, amendment or vacatur, any rights, claims or priorities granted to the DIP Lender hereunder arising prior to the effective date of such modification, amendment or vacatur of the DIP Mortgage, DIP Liens, or DIP Superpriority Claims granted to the DIP Lender shall be governed in all respects by the original provisions of this Final Order, and the DIP Lender shall be entitled to all of the rights, priorities remedies, privileges and benefits, including the DIP Mortgage, DIP Liens and the DIP Superpriority Claims granted herein, with respect to any such claim. Since the loans made pursuant to the DIP Financing Documents are made in reliance on this Final Order, the obligations owed to the DIP Lender prior to the effective date of any stay, modification or vacatur of this Final Order shall not, as a result or any subsequent order in the bankruptcy case or in any successor cases, be subordinated, lose their lien and/or superpriority administrative expense claim status, or be deprived of the benefit of the status of the claims granted to DIP Lender under this Final Order and/or the DIP Financing Documents.

11. **Expenses of DIP Lender/Exemption for Mortgage Recording Tax.** As provided in the DIP Financing Documents, Armstrong shall pay all reasonable expenses incurred by the DIP Lender (including, without limitation, the reasonable fees and disbursements of counsel for the DIP Lender) up to a maximum of $20,000, including in connection with the preparation, execution, delivery and closing of the DIP Financing Documents. Payment of such fees shall not be subject to allowance by the Court and shall not be required to comply with the U.S. Trustee fee guidelines and may be in summary form. The DIP Lender shall provide its invoices to counsel to the Debtor and to the U.S. Trustee. The U.S. Trustee may object to the reasonableness of the fees and expenses provided that any such objection is served on counsel to the DIP Lender no later than ten (10) days after service by such professional of its invoice. Any such objection shall describe with particularity the items or categories of fees and expenses that are the subject of the objection. The Debtor shall promptly pay all amounts that are not the subject of any such objection. Any hearing on an objection shall be limited to the reasonableness of the fees, costs and expenses which are the subject of such objection. Further, the transactions contemplated hereunder, including the granting of the DIP Mortgage and the DIP Liens, to the extent that they are undertaken after confirmation of, and in furtherance of, a chapter 11 plan for Armstrong, shall be exempt from any relevant transfer or mortgage regarding taxes. To the extent any such tax is levied pending confirmation of such a plan, the Debtor shall so inform Ladder, but shall nonetheless be responsible for all such taxes, if any, and shall reimburse the DIP Lender to the extent the DIP Lender is required to pay such taxes.

12. **Maintenance of Property and Other Collateral.** Until the indefeasible repayment in full in cash of all obligations due under the DIP Facility, Armstrong shall (i) adequately insure the Property and (ii) maintain both the Property and its assets.

13. **Section 506(c) Claims.** Other than as set forth herein, no costs or expenses of administration which have been or may be incurred in the case at any time shall be charged against the DIP Lender, or the interests of the DIP Lender in its collateral granted hereunder, whether under sections 105 or 506(c) of the Bankruptcy Code, or otherwise, without the prior written consent of the DIP Lender, and no such consent shall be implied from any other action, inaction, or acquiescence by the DIP Lender.

14. **No Waiver.** The failure of the DIP Lender to seek relief or otherwise exercise its rights and remedies under the DIP Financing Documents, the DIP Facility, this Final Order or otherwise, as applicable, shall not constitute a waiver of any of the DIP Lender's rights hereunder, thereunder, or otherwise. Notwithstanding anything herein, the entry of this Final Order is without prejudice to, and does not constitute a waiver of, expressly or implicitly, or otherwise impair any of the rights or remedies of the DIP Lender under the Bankruptcy Code or under non-bankruptcy law.

15. **No Third Party Rights.** Except as explicitly provided for herein, this Final Order does not create any rights for the benefit of any third party, creditor, equity holder or any direct, indirect, or incidental beneficiary.

16. **Amendment.** The DIP Financing Documents may not be modified in any material respect without further order of the Court. Notwithstanding the foregoing, Armstrong and the DIP Lender may amend, modify, supplement or waive any provision of the DIP Financing Documents without further approval of the Court (subject to two (2) business days' written notice to Ladder), unless such amendment, modification, supplement or waiver (i) increases the interest rate (other than as a result of the imposition of the default rate), (ii) increases the commitments of the DIP Lender under the DIP Financing Documents, (iii) changes

the Maturity Date (as defined in the DIP Financing Documents), (iv) increases the priority of any lien granted hereunder or in the DIP Financing Documents, or (v) alters the Budget to provide for reduced adequate protection/payment of taxes (unless the amount of such taxes has been equally reduced), or (vi) alters the DIP Lender's rights upon an Event of Default adversely to Armstrong. Except as otherwise provided herein, no waiver, modification, or amendment of any of the provisions hereof shall be effective unless set forth in writing, signed by, or on behalf of, Armstrong and the DIP Lender and approved by the Court.

17. **Binding Effect of Final Order.** This Final Order shall be valid and binding upon and inure to the benefit of Armstrong, the DIP Lender, all other creditors of Armstrong or any committee appointed in this case, and all other parties in interest and their respective successors and assigns, including any trustee or other estate representative appointed in this case or any successor case, provided, that the DIP Lender shall have no obligation to make DIP loans or advances to any trustee or other estate representative appointed in this case or any successor case.

18. **Survival of Final Order.** The provisions of this Final Order and any actions taken pursuant hereto shall survive entry of any order which may be entered (i) confirming a chapter 11 plan in this case, (ii) converting the case to a case under Chapter 7 of the Bankruptcy Code, (iii) to the extent authorized by applicable law, dismissing the case; (iv) withdrawing the reference of the case from the Court, or (v) providing for abstention from handling or retaining of jurisdiction of the case in the Court. The terms and provisions of this Final Order, including the DIP Mortgage, the DIP Liens and the DIP Superpriority Claims granted pursuant to this Final Order and the DIP Financing Documents and any protections granted to the DIP Lender, shall continue in full force and effect notwithstanding the entry of such order, and such DIP Mortgage,

DIP Liens and DIP Superpriority Claims and protections for the DIP Lender shall maintain their priority as provided by this Final Order until all the DIP Obligations have been indefeasibly paid in full and discharged (such payment being without prejudice to any terms or provisions contained in the DIP Facility which survive such discharge by their terms).

19. **Inconsistency.** In the event of any inconsistency between the terms and conditions of the DIP Financing Documents and of this Final Order, the provisions of this Final Order shall govern and control.

20. **Enforceability.** This Final Order shall constitute findings of fact and conclusions of law pursuant to the Bankruptcy Rule 7052 and shall take effect and be fully enforceable immediately upon execution hereof.

21. **Waiver of any Applicable Stay, including Bankruptcy Rule 6004(h).** Any applicable stay (including, without limitation, under Bankruptcy Rule 6004(h)) is hereby waived and shall not apply to this Final Order.

22. **No Waiver or Modification of Final Order.** Until and unless the repayment in full of the DIP Facility, Armstrong irrevocably waives the right to seek, and shall not seek or consent to, directly or indirectly without the prior written consent of the DIP Lender: (i) any modification, stay, vacatur or amendment to this Final Order; (ii) priority claim for any administrative expense or unsecured claim against Armstrong or the estate (now existing or hereafter arising of any kind or nature whatsoever, including, without limitation any administrative expense of the kind specified in sections 503(b), 506(c), 507(a) or 507(b) of the Bankruptcy Code) in the case, equal or superior to the DIP Superpriority Claims, other than the Carve-Outs; or (iii) any lien on any assets with priority equal or superior to the DIP Liens or the DIP Mortgage. Armstrong irrevocably waives any right to seek any amendment, modification or

extension of this Final Order without the prior written consent, as provided in the foregoing, of the DIP Lender and no such consent shall be implied by any other action, inaction or acquiescence of the DIP Lender.

23. **Retention of Jurisdiction.** The Court has and will retain jurisdiction to enforce this Final Order according to its terms.

Dated: White Plains, New York
March 28, 2017

/s/Robert D. Drain______________
UNITED STATES BANKRUPTCY JUDGE

Exhibit A to Final Order

See Attached.

4812943v4

EXHIBIT A

Initial Advance:

United States Trustee Fees: $18,850

Ladder: $625,310
(calculated at $89,330/month for September 2016 through March 2017)

Condominium Common Charges: $47,600
(calculated at $6,800/month for September 2016 through March 2017)

NYC Real Estate Taxes: $750,000

$1,441,760.00

Obligations due for April, May and June 2017 will be paid as they become due.

February 8, 2017

DIVISION 1 - GENERAL REQUIREMENTS	Sub-Total	Div. Total	Notes
Contractor's Acquisition of Building Permit - Expeditor Fees	$ By Landlord		Includes $22,560 Credit for Alt 2 Filing
Contractor's Acquisition of Building Permit - DOB Fees	$ 17,814.50		Reduced from $30,278
Temporary Facilities	$ 5,000.00		
Temporary Utilities	$ By Landlord		Eliminated
Dumpsters (Minis -1250 total)	$ 25,000.00		
Temp Barricade (Includes Permit/Removal)	$ 18,000.00		
Temp Protection (Floor Protection/Escalator Protection)	$ 10,000.00		
Staging over Escalator for work above	$ 10,900.00		
Contractor's Materials/ Assemblies Testing Agency (IFTI/Allis)	$ 7,800.00		
Project Management/Administrative	$ 50,000.00		
Architectural and Engineering	$ 150,000.00		
Lighting Design	$ done		
Means and Methods Drawing	$ 5,000.00		
3rd Party Inspection (NYC DOB Technical Report incl. sprinkler)	$ 19,450.00		
Builder's Risk (Allowance)	$ 10,000.00		
Subcontractor Default Insurance	$ 18,000.00		
Contractor's On-site Project Supervision	$ 50,000.00		
Exploratory Work - Test Pit	$ 5,000.00		
Pre-construction Services	$ 3,500.00		
X-Ray Slab/Scope Sanitary	$ done		
Cleanup (Dailyl) - Includes Daily Field Labor	$ 5,000.00		
Final Clean (USM)	$ 12,275.00		
Contractor's Acquisition of Final Certificate of Occupancy	$ 3,000.00		
TOTAL GENERAL REQUIREMENTS		$ 425,739.50	
DIVISION 2 - SITEWORK	**Sub-Total**	**Div. Total**	
Demolition	$ 15,000.00		
Rock Removal	$ Not Included		Soil report indicates rock may be encountered
Unsuitable Soil Excavation & Disposal	$ Not Included		
Excavation & Backfill (includes approved fill material)	$ 30,750.00		
Domestic Water Service (includes Meter Pit/ Vault/ Check Valve)	$ Existing		
Fire Suppression Water Service (includes Meter Pit/ Vault/ Det. Check)	$ Existing		
Sanitary Sewer Service Connection	$ Existing		
Sanitary Sewer Video (two times)	$ 2,000.00		
Electrical Service	$ Existing		
TOTAL SITEWORK		$ 47,750.00	
DIVISION 3 - CONCRETE	**Sub-Total**	**Div. Total**	
Elevator Pit	$ 50,000.00		
Slab Infills	$ 5,000.00		
Plumbing Trench Infill	$ Included		

TOTAL CONCRETE		**February 8, 2017** $ 55,000.00

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	Sub-Total	Div. Total	
DIVISION 4 - MASONRY			
Concrete Unit Masonry	$ 33,000.00		
Stone Veneer at Storefront **(Allowance)**	$ 70,000.00		
TOTAL MASONRY		$ 63,000.00	
DIVISION 5 - METALS			
Structural Steel (including Metal Joists & Metal Decking)	$ 50,000.00		
TOTAL METALS		$ 50,000.00	
DIVISION 6 - WOOD & PLASTICS			
Rough & Finish Carpentry (Plywood/Blocking/Door Installation)	$ 17,185.00		
BOH Millwork (Cash Office/Managers Office/Breakroom)	$ 15,000.00		
TOTAL WOOD & PLASTICS		$ 32,185.00	
DIVISION 7 - THERMAL & MOISTURE PROTECTION			
Single-Ply Membrane Roofing System **(Allowance)**	$ 0.00		
Aluminum Composite Panel System (Alucabond)	$ 0.00		Deleted From Scope
Sprayed Fireproofing (New Steel Only) **(Allowance)**	$ 5,000.00		
TOTAL THERMAL & MOISTURE PROTECTION		5,000.00	
DIVISION 8 - DOORS & WINDOWS			
Metal Doors & Frames	$ 127,100.00		
Special Doors	$ 2,113.00		
Aluminum Entrance Doors & Storefront	$ 54,000.00		
Automatic Sliding Doors	$ 22,430.00		
Window Shades (Excludes Window Film)	$ 17,500.00		
Finish Hardware	$ 6,000.00		
TOTAL DOORS & WINDOWS		$ 229,143.00	

February 8, 2017

DIVISION 9 - FINISHES	Sub-Total	Div. Total
Gypsum Wallboard Partition System (including light gauge met. framing)	$ 327,665.00	
Ceramic Tile	$ 65,105.00	
Acoustical Ceiling	$ 35,150.00	
Resilient Flooring (including Vinyl Base) (Does not include Floor Prep)	$ 84,895.00	
Carpet	$ 5,000.00	
Concrete Floor Coatings (CC3)	$ 3,800.00	
Painting	$ 38,450.00	
Vinyl Wallcovering	$ 1,550.00	
TOTAL FINISHES		$ 561,615.00

DIVISION 10 - SPECIALTIES	Sub-Total	Div. Total
Building Signage	$ 75,000.00	
Red Band Community Board (Digital)	$ 10,000.00	
Awnings	$ 15,000.00	
Slatwall	$ 30,055.00	
Dwell Space Column Enclosures **(Allowance)**	$ 17,500.00	
Washroom Accessories & Kitchen Equipment (Includes Installation)	$ 20,000.00	
Customer Service Desk, Register Bays, & Remote Service Desks **(Allowance)**	$ 10,000.00	
Other Miscellaneous Specialties(FE/Cigarette Extinguisher/CG's/Bumpers.etc.)	$ 7,500.00	
Install Service Desks and Misc. Specialities	$ 15,000.00	
TOTAL SPECIALTIES		$ 200,055.00

DIVISION 14 - CONVEYING SYSTEMS	Sub-Total	Div. Total
Elevator - KONE	$ 145,000.00	
Refurbish Existing Freight Elevator - KONE	$ 20,000.00	
Refurbish Existing Escalators - KONE	$ 255,000.00	
Elevator Enclosure at New Elevator	$ 15,000.00	
TOTAL CONVEYING SYSTEMS		$ 435,000.00

DIVISION 15 - MECHANICAL	Sub-Total	Div. Total
Fire Suppression System	$ 50,000.00	
Plumbing Systems - Includes Hughes Supply Fixtures	$ 72,890.00	
HVAC Systems (Excluding Sales & Pre-Sales Ductwork)	$ 250,000.00	
Ductwork	$ 75,000.00	
TOTAL MECHANICAL		$ 447,890.00

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	Sub-Total	Div. Total
DIVISION 16 - ELECTRICAL		
Total Electrical Systems (Excluding Line Items)	$ 695,000.00	
Line Items		
- Light Fixtures and Lamps	$ 351,995.00	
- CPI/NextRev	$ 100,000.00	
- CCTV - Navco	$ 8,710.00	
- WG Security	$ 17,075.00	
- Digital Signage	$ 79,619.00	
Fire Alarm System	$ 45,000.00	
TOTAL ELECTRICAL		$ 1,297,399.00

	Sub-Total	Div. Total
INSURANCE & GC FEE		
Contractor's General Liability Insurance (1.835%)	$	$ 74,343.05
Contractor's Project Administration, Overhead & Profit (5%)	$	**$ 202,569.63**
TOTAL OVERHEAD & PROFIT		$
Contingency (2.5%)	$ 257,206.26	$
BASE BID CONTRACT SUB-TOTAL (Not Including Bid Alternates)		$ 4,051,392.50